

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 15 and 27 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 15-24 and 27-34 are now pending in this application.

In the December 21, 2006 Official Action, the fourth substantive action in the present application, the Examiner rejected claims 15-21, 27 and 29 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,477,152 (Hiatt). Claims 23-24 were rejected based upon Hiatt in view of U.S. Patent No. 6,801,934 (Eranko). Claims 22 and 28-34 were rejected based upon Hiatt in view of Official Notice.

Applicant respectfully traverses each of the Examiner's rejections on the grounds that, contrary to the Examiner's assertions, Hiatt fails to teach several elements found in the independent claims. First, Applicant notes that independent claims 15 and 27 both require that a server be used to both attempt to establish a connection with the remote server and permit the local customer terminal to access (i.e., download) content from the remote server. (Although Applicant has amended the independent claims for clarity purposes, the claims in their previous form had all of the individual processes occurring in one server). The system in Hiatt, however, is entirely different. One only needs to look at Figure 1 and other Figures to observe that it is not a single device which both serves as the initial transmission mechanism (the transmission unit) and the device via which the terminal receives the remote content (the receiver). This is made even more clear in the specification, where the receiver (col. 3, l. 63-col. 5, l. 20) is discussed as being an entirely separate system than the information request system/transmission unit (col. 5, l. 40-col. 6, l. 50). In other words, Hiatt

does not teach a single server for performing all of the processes of independent claims 15 and 27, as Hiett does not teach a server for both transmitting and accessing (i.e., receiving) information. In addition, because the embodiments described and shown in Hiett consistently teach using separate devices for these processes, one cannot assert that it would have been obvious for one skilled in the art to go against these clear teachings by combining the devices.

Additionally, when it comes to the information request system sending information and the receiver receiving information in Hiett, Hiett specifically teaches that different interfaces and communication media be used for each process. Throughout the reference, Hiett repeatedly discusses the use of two different communication media—with one for sending information and the other for receiving information. In fact, the Summary of the Invention in Hiett clearly states that “[t]he receiver is coupled to the data source via any appropriate and available medium...and is suitably different from the medium coupling the information request system to the data source.” (emphasis added).¹ Furthermore, given that different media are used, and different devices are used to send and receive information, it is clear that the receiver and transmission unit use different interfaces in order to send and receive information, which is clearly different from the claims as amended. For example, Figure 7 and col. 4, ll. 26-42 describe the receiver as having its own interface(s), while Figure 8 and col. 6, ll. 23-36 describe the transmission unit as including its own transmission mechanisms (i.e., interfaces). Therefore, regardless of which media are ultimately selected for transmitting and receiving data, the interface for transmitting information is not the same interface that is used for receiving data.

To clarify the point, Applicant has amended the independent claims to specifically describe the local customer terminal as using the server to access the remote content via the second interface (or third interface). In other words, regardless of which interface is ultimately used, the same interface is used to both request the information and to receive it. As discussed above, Hiett specifically teaches away from this feature.

¹ Although Hiett does state at col. 21, ll. 45-48 that the two communication media “may be the same or different media, or separate channels of the same medium,” this is clearly contradicted by the rest of the references, which clearly teaches away from this feature. Additionally, even if the same medium were used,

In the December 21, 2006 Official Action, the Examiner referred to col. 6, ll. 37-50 to assert that it would have been obvious to modify Hiett by adding functionality to attempt the establishment of a broadband connection, and then switch to another mechanism if the broadband connection were unavailable. First, Applicant notes that, although Hiett mentions that different media may be selected based upon “availability,” it never discusses any prioritizing of the communication media to be used. Second, even if it did, Hiett would still be deficient because you do not have a single server performing all of the actions of independent claims 15 and 27. In the case of claim 27, for example, the same device must both receive a request from the local customer terminal and establish the connection permitting the terminal to receive remote information. In Hiett, however, the receiving is performed by transmission unit, while the accessing (i.e., receiving) of information is performed via the receiver. Because a single server does not perform both actions, the Examiner’s arguments on other points is largely irrelevant.

Because the features discussed in detail above and included in independent claims 15 and 27 are not taught in Hiett, and are in fact are taught away from therein, Applicant submits that the rejection of these claims, as well as dependent claims 16-21 and 29 based upon Hiett is improper. With regard to the other rejections made by the Examiner, neither Eranko nor the fact that Official Notice is taken of other features cure the deficiencies discussed above. As such, the rejection of claims 22-24 and 28-34 are also overcome based upon the above arguments and the amendments made herein.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment,

Hiett nevertheless explicitly teaches the receiver having interfaces separate from the information request system. *See, e.g.*, col. 4, ll. 26-42 (for the receiver); col. 6, ll. 23-36 (for the transmission unit).

to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date: March 20, 2007

By /G. Peter Albert Jr./

FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6735
Facsimile: (858) 792-6773

G. Peter Albert Jr.
Attorney for Applicant
Registration No. 37,268